

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
HORRY DIVISION
Civil action No. 4:23-cv-01720-JD

Jonathan Lewis,

Plaintiff,

vs.

Circle K Stores, Inc., and
John Doe,

Defendants.

DEPOSITION OF: JONATHAN LEWIS

DATE: Thursday, March 7, 2024

TIME: 9:58 a.m. - 11:27 a.m.

LOCATION: Morgan & Morgan
11915 Plaza Drive
Suite 301
Murrells Inlet, SC 29576

TAKEN BY: Attorney for Defendants

COURT REPORTER: Michele E. Starkey
Certified Shorthand Reporter

1 I wasn't there, right?

2 A. Yes, sir.

3 Q. And so the only way I can kind of piece it
4 together is by asking you all kinds of little
5 questions. You're going to be like, why is he asking
6 this? But you might take it for granted because you
7 were there, but I just got to rebuild kind of what
8 happened in my mind.

9 A. Yes, sir.

10 Q. So tell me your story and then I'm going to
11 come back and ask you a bunch of details.

12 A. That morning I went to Circle K to get some
13 gas. I went in the store like any other time. I paid
14 for my gas. I came out and I slipped. I tried to
15 catch it with my foot, like my toe, and it just
16 buckled and I heard pops in my ear -- or a couple of
17 pops in my ear. And one of the employees came up to
18 me and asked me if I'm okay, and I said, "No, sir; can
19 you please call the ambulance, can you please call
20 somebody to help me." And he went back in there and
21 he came back out. Then an ambulance was there. I
22 thought it was for me but, you know, they say, "Oh,
23 no, we just off duty." So I had to wait for another,
24 like, 20, 30 minutes for another ambulance to come.

25 Q. Yeah. On the video you see that private

1 ambulance come through. It's just stopping by to
2 probably do what you're going to do.

3 A. Yeah, I say, "Oh, my God." I said, "Please
4 help me." I said, "Can you please help me?" He said,
5 "I can't do nothing. I can't do nothing." I'm like,
6 Oh, my God. This is the worst, yeah.

7 Q. Okay. So that day were you living at your
8 parents at that point?

9 A. Yes, sir.

10 Q. And so about what time did this incident
11 happen?

12 A. It had to be after 10:00 in the morning.

13 Q. Do you remember what time you got up?

14 A. I got up at that morning, I say like 9:00,
15 because I ate breakfast and I walked my dog, walked my
16 dog up and down the road and came back, and somebody
17 called me and said, "Can you come" -- "come pick me
18 up." I said, "Okay. I got to get gas first." And
19 that's what happened.

20 Q. So this is the kind of the period where your
21 name is out there where they know they can call
22 Jonathan for rides from time to time?

23 A. Yes.

24 Q. So who was it who called you to pick them up?

25 A. I think it was my friend James. What's his

1 A. I was trying to catch my fall with my foot.
2 Like I'm stepping out like this and I was trying to
3 catch my foot, ball of my foot, but it wouldn't let me
4 and just I just slipped like this, and I heard (noise)
5 in my ear.

6 Q. And where did you -- sometimes when you hear
7 a sound, you also feel the thing making the sound.
8 Did you feel the thing making the sound?

9 A. Not at the moment and then I felt it, like as
10 soon as I try -- I like, oh, I could get up from it,
11 and I was like, oh, no. I felt it. It was like -- it
12 was a sharp pain.

13 Q. Where was it?

14 A. It was all over my leg. It was in my
15 kneecap, all over my kneecap. I wanted to scream,
16 actually. I wanted to scream.

17 Q. Do you think the sound came from within your
18 right knee?

19 A. I think so, sir.

20 Q. Okay. So --

21 A. Or my foot, one -- one or the other. I think
22 it was my right knee though.

23 Q. When you told me just a moment ago that you
24 tried to catch yourself with -- on your fall, was that
25 kind of with your right foot?

1 A. Yes. Tried to stop my fall because I felt
2 myself about to slip. I said, oh, man. I couldn't.
3 I couldn't control it and just it happened.

4 Q. Okay. I want to ask you a little bit about
5 your right foot and what you were sensing and feeling
6 and whatnot. Did you feel your right foot slip at
7 some point? Did it turn? Describe for me what we
8 call the mechanics of it.

9 A. I'm not sure. I just felt my right -- my
10 right foot just out of control and I'm like -- I'm
11 trying to control myself and control my fall and brace
12 myself for it, because I knew it was coming as soon as
13 I like -- I was feeling it. I was feeling it. I
14 tried to stop myself with my big toe, the balls of my
15 feet, and just couldn't do it.

16 Q. So I've had situations sometimes, in fact,
17 the shoes I've got on now, where I just be moving too
18 quickly and I'll roll my foot a little and almost
19 twist my ankle. Did you feel your foot rolling at
20 all?

21 A. No. No, sir.

22 Q. Okay. Did your right foot ever come out of
23 the Croc?

24 A. No, sir.

25 Q. Did it feel at any point like your Croc had

1 slipped on anything?

2 A. No, sir.

3 Q. Okay. What do you think was the reason that
4 you fell there once you stepped with your right foot?

5 A. What I know now or then?

6 Q. At the --

7 A. At the time?

8 Q. At the time.

9 A. I didn't know.

10 Q. Okay.

11 A. I didn't know at the time. I was like why --
12 why did I fall like that. And then I realized I was
13 sitting in a puddle of some kind of liquid.

14 Q. Okay. And now what do you -- what do you
15 think it was that was the reason your right -- and
16 again, terms are important.

17 A. Yes, sir.

18 Q. How would you describe what your right foot
19 did? Did it trip? Did it slip? Did it roll?

20 A. One way to explain it, slip roll all
21 together.

22 Q. Okay. All right. And now sitting here
23 today, what do you believe the cause of that to be?

24 A. The guy putting whatever kind of liquid he
25 has on the ground and making it slippery, either that

1 A. Yes.

2 Q. I'm sorry. 11:16:50 you're on the ground?

3 A. 11:16:50, yes.

4 Q. All right. Looking at this, where do you
5 think the source of the wetness on your pants came
6 from?

7 A. Can I --

8 Q. Yes, you may.

9 A. At the time, it had to be that right here.

10 Q. Okay.

11 A. The spot right here. My foot -- my leg right
12 here had to been dragged all right here.

13 Q. Okay.

14 A. See I'm dragging my leg?

15 Q. Yes, sir.

16 A. Think it had to be right here. That's why my
17 pants leg got wet.

18 Q. Where the -- kind of the --

19 A. Yeah, it was kind of wet right here.

20 Q. Where the shade and -- changes in the
21 pavement?

22 A. Yes, sir.

23 Q. Okay. Got it. So as you're laying there,
24 tell me what's hurting you at that point.

25 A. Excruciating pain. I never been in that much

1 pain in my whole life, never, and I played football my
2 whole life, basketball, everything. I ain't never
3 been in that much pain in my whole life. I wanted to
4 cry like a baby. It's like I just wanted it to stop.
5 Like, you know.

6 Q. You didn't hit your head or anything,
7 correct?

8 A. No, sir. My foot was swollen though.

9 Q. Okay. Which foot?

10 A. My right foot.

11 Q. All right. And the leg that hit the ground
12 was the right leg as well, correct?

13 A. Yes.

14 Q. How's your knee feeling at that point?

15 A. At that point my knee was like -- when I
16 fell? When I was on the ground?

17 Q. Yes, when you were on the ground.

18 A. I knee was a nine or ten in pain.

19 Q. Okay. Anything else hurting at that point
20 other than your right leg all the way down?

21 A. My knee and my foot and, yeah, my leg all the
22 way down, really. Just my knee and my foot I felt. I
23 felt my foot and, like, I thought for certain it was
24 my foot at first, and then I realized it was my knee
25 and I'm like, oh, my God, and then I looked down and

1 my foot was swollen like this.

2 Q. And you're still talking about just your
3 right side, correct?

4 A. Yeah, my right.

5 Q. Any issues with your left that you remember
6 at that time?

7 A. No, sir.

8 Q. All right. Eventually the ambulance comes to
9 get you; is that correct?

10 A. Yes, sir.

11 Q. All right. And I'm going to show you a time
12 of 11:18:35.

13 A. Okay.

14 Q. And you're still on the ground; is that
15 correct?

16 A. Yes, sir.

17 Q. All right. Do you know the names of anybody
18 in this particular screenshot?

19 A. The guy right there with the black hoodie,
20 the brown on, right there, that's Daniel.

21 Q. Okay.

22 A. That's the one that called my parents. He
23 has his phone out right there.

24 Q. How about the gentleman in the --

25 A. I don't know anybody else in the picture.

1 from about October 25th, which was about a week after
2 the accident. Does that sound right? It took you
3 about a week to get into them?

4 A. No. I got hurt one day and then shortly -- I
5 think it was days, if I'm not mistaken, but I could be
6 wrong. Because I was in my room and I was, like, I
7 wasn't getting no better, so I, like, I got to go. I
8 got to go. I couldn't walk; I couldn't move. My
9 father had to bring me food and stuff like that. I'm
10 like oh, God, I got to go. I got to go.

11 Q. So I have a range here of visits from October
12 25th to November 17th and it looks like your surgery
13 -- your surgery was sometime in early November.
14 Correct? Do you remember it being close to
15 Thanksgiving?

16 A. I'm not sure, sir.

17 Q. Okay. Are you still seeing OrthoSC for
18 anything?

19 A. No. My therapy and everything is over.

20 Q. Okay. So after you visited with OrthoSC, did
21 they, like, do a follow-up and determine you were as
22 good as you could be?

23 A. No. No, not really, sir, because my leg got
24 infected afterwards too.

25 Q. It did?

1 **did you do yesterday?**

2 A. Watch T.V., spend time with my dog, cook
3 breakfast, cook lunch, cook dinner, you know, normal
4 things. I have a real boring life, really. It's like
5 really consistent with the same thing every day now,
6 yes.

7 **Q. What do you do for fun?**

8 A. I used to play basketball but now I just
9 watch basketball for fun.

10 **Q. Were you part of a pickup league or anything**
11 **or --**

12 A. No, sir, I just go play basketball at the rec
13 or your local YMCA or something like that. I just
14 play with people my age, my age group, over 30.

15 **Q. Do you have a membership at the Y?**

16 A. No. I pay full price at the moment. I pay
17 \$5 to get in.

18 **Q. When were you last at the Y?**

19 A. Before this happened.

20 **Q. Okay.**

21 A. Like a week before this happened.

22 **Q. Okay.**

23 A. Before my injury in 2022.

24 **Q. How about the rec center?**

25 A. Like a week before -- before the incident.